

Office of the Secretary, DHS

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§ 13.43 Collection of civil penalties and assessments.

Sections 3806 and 3808(b) of title 31, United States Code, authorize actions for collection of civil penalties and assessments imposed under this part and specify the procedures for such actions.

§ 13.44 Right to administrative offset.

The amount of any penalty or assessment that has become final, or for which a judgment has been entered under § 13.42 or § 13.43, or any amount agreed upon in a compromise or settlement under § 13.46, may be collected by administrative offset under 31 U.S.C. 3716, except that an administrative offset may not be Made under that subsection against a refund of an overpayment of Federal taxes, then or later owing by the United States to the Defendant.

§ 13.45 Deposit in Treasury of United States.

All amounts collected pursuant to this part will be deposited as miscellaneous receipts in the Treasury of the United States, except as provided in 31 U.S.C. 3806(g).

§ 13.46 Compromise or settlement.

(a) Parties may Make offers of compromise or settlement at any time.

(b) The Reviewing Official has the exclusive authority to compromise or settle a case under this part at any time after the date on which the Reviewing Official is permitted to issue a Complaint and before the date on which the ALJ issues an Initial Decision.

(c) The Authority Head has exclusive authority to compromise or settle a case under this part at any time after the date on which the ALJ issues an Initial Decision, except during the pendency of any review under § 13.42 or during the pendency of any action to collect penalties and assessments under § 13.43.

(d) The Attorney General has exclusive authority to compromise or settle a case under this part during the pendency of any review under § 13.42 or of any action to recover penalties and assessments under 31 U.S.C. 3806.

(e) The Investigating Official may recommend settlement terms to the

Reviewing Official, the Authority Head, or the Attorney General, as appropriate. The Reviewing Official may recommend settlement terms to the Authority Head, or the Attorney General, as appropriate.

(f) Any compromise or settlement must be in writing and signed by all parties and their Representatives.

§ 13.47 Limitations.

(a) The notice of hearing with respect to a Claim or Statement must be served in the manner specified in § 13.8 within 6 years after the date on which such Claim or Statement is Made.

(b) If the Defendant fails to serve a timely answer, service of a notice under § 13.10(b) will be deemed a notice of hearing for purposes of this section.

(c) The statute of limitations may be extended by agreement of the parties.

PART 15—ENFORCEMENT OF NON-DISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE DEPARTMENT OF HOMELAND SECURITY

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§ 15.1 Purpose.

The purpose of this part is to effectuate section 504 of the Rehabilitation Act of 1973 (“Section 504”), as amended by section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which prohibits discrimination on

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the basis of disability in programs or activities conducted by Executive agencies. The provisions established by this part shall be effective for all components of the Department, including all Department components that are transferred to the Department, except to the extent that a Department component already has existing section 504 regulations.

§ 15.2 Application.

This part applies to all programs or activities conducted by the Department of Homeland Security (Department), except for programs or activities conducted outside the United States that do not involve individuals with a disability in the United States.

§ 15.3 Definitions.

For purposes of this part:

(a) *Auxiliary aids* means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the Department. For example, auxiliary aids useful for persons with impaired vision include readers, materials in Braille, audio recordings and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, notetakers, written materials and other similar services and devices.

(b) *Complete complaint* means a written statement that contains the complainant's name and address, and describes the Department's alleged discriminatory action in sufficient detail to inform the Department of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes of individuals with disabilities shall also identify (where possible) the alleged victims of discrimination.

(c) *Facility* means all or any portion of a building, structure, equipment, road, walk, parking lot, rolling stock, or other conveyance, or other real or personal property.

(d) *Individual with a disability* means any person who has a physical or mental impairment that substantially limits one or more of the individual's major life activities, has a record of such an impairment, or is regarded as having such an impairment. For purposes of this definition:

(1) *Physical or mental impairment includes:*

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term *physical or mental impairment* includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(2) *Major life activities* includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) *Has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more of the individual's major life activities.

(4) *Is regarded as having an impairment* means:

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the Department as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (e)(1) of this section but is treated by the Department as having such an impairment.